

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Civ. No. 05-2128MaV |
| |) | Crim. No. 03-20456Ma |
| JOHN ARTHUR BOWERS, |) | |
| |) | |
| Defendant. |) | |

REPORT AND RECOMMENDATION
ON DEFENDANT'S MOTION TO VACATE, SET ASIDE
OR CORRECT SENTENCE PURSUANT TO 28 U.S.C. § 2255

On February 15, 2005, the defendant, John Arthur Bowers, filed a *pro se* motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 in which he raised three issues. On October 24, 2005, Bowers, through counsel, filed an amended § 2255 motion raising two additional issues. By order dated May 24, 2007, the court denied relief on each of the issues raised by Bowers in his original and amended motion, except for issue 4, whether he was denied effective assistance of counsel due to a possible conflict of interest on the part of his trial counsel. Because the sole remaining issue raised questions of fact, the matter was referred to the United States Magistrate Judge for an evidentiary hearing and a report and recommendation.

Pursuant to the reference, a hearing was held on January 22, 2008. On March 10, 2008, Bowers, through counsel, filed a motion to withdraw his habeas corpus petition. Accordingly, it is

recommended that the motion to withdraw the petition be granted and that this case be dismissed in its entirety.

Submitted this 11th day of March, 2008.

s/ Diane K. Vescovo
DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE

NOTICE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN TEN (10) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN TEN (10) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND FURTHER APPEAL.